

In the Court of the IV Additional District and Sessions Judge, Madurai

Present : Tmt.N.Nagalakshmi, M.A., B.L.,

IV Additional District and Sessions Judge, Madurai

Wednesday, the 3rd day of June, 2020.

Cr.M.P.No.306/2020 in Sessions Case No.337/2014

A.Thangapandi,
S/o Ayyavoo.

... Petitioner/accused

/vs/

State,
through the Inspector of Police,
B4 Keeraithurai Police Station.
in Crime No.539/2013.

... Respondent/Complainant

This application came up before me for hearing on 01.06.2020 through audio conference call in the presence of Thiru.Na.Manimaran, Counsel for the accused and of Thiru.N.Selvam, Additional Public Prosecutor for the State and upon hearing the arguments of both side and upon perusing the case records, this court passed the following

ORDER

Application filed by the petitioner/accused u/s 439 of Cr.P.C. to enlarge the petitioner/accused on bail.

2. Heard both sides. The learned counsel for the petitioner would submit that the petitioner has been charged for the alleged offences u/s 302 of IPC, the petitioner has been remanded to judicial custody on 10.12.2018 and he is in judicial custody for the past 525 days, while the main case was pending for trial the petitioner had failed to appear before this court on 29.06.2018 since he had attended a condolence of his close relative, hence NBW was issued against the petitioner and the same was executed by the respondent police, the earlier bail application in Cr.M.P.No.326/2019 was dismissed by this court on 19.08.2019, the petitioner undertakes to appear before this court for all the hearings regularly without fail and prayed to enlarge the petitioner on bail with any stringent condition.

3. Per contra, the learned Additional Public Prosecutor has submitted that earlier the petitioner / accused has not appeared before this court for hearings, hence this court issued NBW against the petitioner on 13.10.2017 and the same was executed and he was remanded to prison, while so, the petitioner was enlarged on bail as per the order of the Hon'ble Madurai Bench of Madras High Court dated 07.06.2018 on condition to appear and sign before this court, the petitioner has not complied the said condition from 27.06.2018 and therefore this court again issued NBW against the petitioner and the same was executed on 10.12.2018. He would further submit that eight witnesses have been examined on the side of prosecution who are not yet cross-examined on the side of petitioner and if the present application is allowed, the petitioner will definitely tamper the witnesses and abscond to other States which will drag on the entire case proceedings and he strongly objected to enlarge the petitioner on bail.

4. Considering the rival submission of either side, this court finds that NBW was issued against the petitioner twice viz. 13.10.2017 and 10.12.2018 as he had failed to appear before this court regularly which shows the ill intention of the petitioner to hamper the process of concluding the case. In the main case, as on date, eight witnesses have been examined on the side of prosecution who are yet to be cross-examined by the accused side. The petitioner has not taken any steps to file petition u/s 311 of Cr.P.C. to cross-examine the witnesses, which shows that the accused is not ready to co-operate with the court in conducting the trial, whereas he has come up with the present application for bail. It is the representation of the prosecution that the petitioner has no permanent residence. It is admitted that this court has dismissed the bail application of the petitioner thrice on the ground of non-compliance of the condition by the petitioner which was imposed by the Hon'ble Madurai Bench of Madras High Court. The learned counsel for the petitioner represented that the petitioner has been in judicial custody for the past 525 days. The learned Additional Public Prosecutor has submitted that if the present application is allowed, the petitioner will definitely tamper the witnesses who have given evidence

in the form of chief-examination. Hence, this court holds that though the incarceration period is long, considering the above facts and circumstances of the case and the ill intention of the petitioner and the strong objections raised by the learned Additional Public Prosecutor, this court is not inclined to enlarge the petitioner on bail.

In the result, the bail petition is dismissed.

Pronounced by me in open court, this the 3rd day of June, 2020.

IV Additional District & Sessions Judge,
Madurai.

Copy to:-

The Inspector of Police, B4 Keeraithurai Police Station.